

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, March 6, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **Minutes**, February 20 and 27, 2002 Worksession.

Action: Approved, (LLM/AIF, 5-0).

2. **A-5643, Appeal of Larry N. Thompson** (Department of Permitting Services (DPS) – Denial of Non-Conforming Use Application). Letter to the Board from Stuart Barr, Esquire and Malcolm F. Spicer, Jr., Assistant County Attorney, requesting a continuance.

Action: Appeal dismissed as withdrawn, (DLB/LLLM, 5-0).

3. **A-5678, Appeal of Luxmanor Citizen's Association, Inc. and Jerry Black, Mark M. Spradley and Tim D. Andreadis and, A-5679, Appeal of Luxmanor Citizen's Association, Inc. and Jerry Black, Mark M. Spradley and Tim D. Andreadis** (Department of Permitting Services – Issuance of Building Permit No. 257394 and Ruling Letter dated 8/31/01). Letter to the Board from William J. Chen, Jr., Esquire, stating that he is unavailable the afternoon of 3/27/02 and requesting additional hearing dates.

Action: (1) Administrative appeals hearings scheduled for 3/27/02 to start @ 9:30 a.m.; (2) Mr. Chen to confirm the start time with Mr. Abrams, consensus.

4. **A-5700, Appeal of Arnold Fainman, (Department of Permitting Services – Notice of Violation), A-5716, Appeal Donald M. McGee (Department of Permitting Service – Notice of Violation), A-5721, Appeal of Arnie Fainman (Department of Permitting Services – Notice of Violation).** Letter to the Board from Helen Lynn Primo, Esquire, requesting a consolidation of the hearing dates and a hearing date in May.

Action: (1) Granted consolidation of the public hearings; (2) consolidated public hearings scheduled for 7/10/02 @ 1:30 p.m., (AIF/DLB, 5-0).

5. **A-5720, Appeal of Robert O. & Sophia Blake and J. Gary O. & Lynne L. VanDyke** (Department of Permitting Services – Issuance of Building Permit No. 264003). Letter to the Board from Martin J. Hutt, Esquire, requesting to intervene.

Action: (1) Granted request to intervene, (LLM/AIF, 5-0).

6. **CBA-294 [CBA-617, CBA-1478, S-280, S-689] Petition of Kenwood Golf and Country Club** (golf and country club). Letter to the Board from Harry W. Lerch, Esquire, notifying the Board of recent correspondence received by the special exception holder from Ms. Martha Donnelly.

Action: Board to request DPS inspection of the fruit stand on River Road for compliance, consensus.

7. **CBA-560 [CBA-2417, CBA-2418], Petition of National 4-H Council** (private education institution). Letter to the Board from National 4-H Council and the Town of Chevy Chase requesting an administrative modification. (Large exhibits: elevations, floor plans, roof plan and construction notes).

Action: (1) Denied administrative modification request; (2) special exception holder will have the option of applying for a public hearing or deferring the request to a later date pending the Council's action on a text amendment, (LLM/AMC, 5-0).

8. **CBA-2749, Petition of Texaco, Inc.** (automobile filling station). Letters to the Board from Patton C. Barns, Jr. and Arthur L. Roberts requesting a public hearing on the transfer of the special exception.

Action: Granted request to hold a public hearing on the transfer of the special exception, (DLB/LLM, 5-0).

9. **CBA-2841 [S-130], Petition of Rudy Ramirez** (veterinary hospital). Letter to the Board from Susan W. Carter, Esquire, requesting an administrative modification.

Action: (1) Granted administrative modification request; (2) special exception holder is to complete the required plantings by 4/30/02, (AMC/AIF, 5-0).

10. **S-420-E, Petition of Holy Cross Hospital of Silver Spring, Inc.** (hospital). Letter to the Board from Robert G. Brewer, Jr., requesting a minor modification. Also included is a letter to the Board from Cornelius P. McKelvey, Senior Vice President, submitting the second progress report.

Action: (1) Denied administrative modification request; (2) special exception holder to file a major modification request by 3/8/02; (3) the Board will consider a request for an expedited public hearing, (AIF/AMC, 5-0).

11. **S-774, Petition of Exxon Corporation** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (DLB/LLM, 5-0).

12. **S-1545 [CBA-1807], Petition of Cecilia L. Ebrahimi** (private riding stable). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that the special exception be revoked.

Action: Schedule Show Cause Hearing, (AMC/AIF, 5-0).

13. **S-1655, Petition of Tosco Market LLC.** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (AIF/AMC, 5-0).

14. **S-2066, Petition of Exxon Corporation** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/AMC, 5-0).

15. **S-2179, Petition of Lynn Walter Shaulis** (golf driving range). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (DLB/LLM, 5-0).

16. **S-2453, Petition of Academy Child Development, Inc.** (child day care facility). Letter to the Board from Mark Thomas Schaefer, PE, CCM, requesting an administrative modification. (Large exhibits: elevations and site plan).

Action: Granted administrative modification request, (DLB/LLM, 5-0).

17. **S-2454, Petition of Nextel Communications of the Mid-Atlantic** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from Jody S. Kline, Esquire, withdrawing the special exception request and requesting a 50% refund of the filing fee.

Action: (1) Dismissed special exception as withdrawn; (2) granted 50% (\$3500.00) refund of the filing fee in accordance with the Board's Rules of Procedure, (LLM/AMC, 5-0).

18. **S-2501, Petition of Xtra Care Landscaping & Design, Inc.** (landscape contractor). Letter to the Board from Susan W. Carter, Esquire, withdrawing the special exception request and requesting a partial refund of the filing fee.

Action: (1) Dismissed special exception as withdrawn; (2) denied request for a refund of the filing fee in accordance with the Board's Rules of Procedure (request within 30 days of the public hearing), (LLM/DLB, 5-0).

PENDING ITEMS:

19. **CBA-1692 [S-719, S-720, S-721], Petition of Karl W. Corby, Jr., et al** (medical practitioner's office). Letter to the Board from Stanley N. Garber, Zoning Investigator, DPS, notifying the Board of the special exceptions' outstanding Notices of Violation. Item deferred to a future worksession pending clarification from DPS.

20. **CBA-2640, Petition of The National Capital Area Council – Boy Scouts of America** (eleemosynary and philanthropic institution). Letter to the Board from Patricia A. Harris, Esquire, requesting an administrative modification. Board requested a review and recommendation from M-NCPPC.

21. **CBA-2986, Petition of Leafy House, Inc.** (housing for the elderly). Letter to the Board from Chris A. Fremuth, R.L.A., requesting an administrative modification. (Large exhibit: site, landscape and lighting plan). Item deferred for review of the landscape/lighting plan and the parking plan by M-NCPPC.

22. **S-569, [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery). Letter of complaint to the Board from David C. Gardner, Esquire, regarding the special exception use. Board requests DPS inspection of the special exception property.

PENDING ITEMS (continued):

23. **S-1547, Petition of Precision Tune** (automobile tune-up and service shop). Letter to the Board from Sa Kwon, owner, requesting a transfer of the special exception. Board granted the transfer of the special exception and requested DPS to inspect the special exception for compliance with landscape and lighting plan.

24. **S-1716, Petition of Sports Fun, Inc.** (commercial recreational or entertainment establishment). Letter to the Board from David and Nancy Ris, current property owners, notifying the Board that the special exception has been abandoned and requesting that the special exception be revoked. Item deferred. Board to request DPS correction of special exception address.

25. **S-2093, Petition of Bell Atlantic Mobile Systems, Inc.** (public utility structure). Letter to the Board from Sue Swett, Real Estate Department, Pinnacle Towers Inc., requesting a transfer of the special exception. Board requests additional information.

26. **S-2389 [S-24-B], Petition of AT&T Wireless Service, Inc.** (telecommunications facility). Letter to the Board from James R. Michal, Esquire, requesting an administrative modification. Board requests additional information.

27. **S-2435, Petition of Saiful and Jannatul B. Islam** (accessory apartment). Order from the Circuit Court reversing the Board's Opinion. Board requested DHCA inspection of the special exception and the item will return to a future worksession to determine if a public hearing is required.

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

Sherry Glazer, Assistant County Attorney
Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist

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